

Message Text

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ORIGIN SCI-06

INFO OCT-01 EUR-25 ADP-00 L-03 ACDA-19 CIAE-00 DODE-00

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FM SECSTATE WASHDC

TO AMEMBASSY BERN PRIORITY

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY LONDON

AMEMBASSY MADRID

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

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E.O. 11652 N/A

TAGS: TSPA, XG

SUBJ: AIDE MEMOIRE SKYLAB AGREEMENT

REF: PARIS 17270

1. THE FOLLOWING IS THE TEXT OF US AIDE MEMOIRE DATED JULY 9, 1973 WHICH WAS DELIVERED TO FRG EMBASSY REPRESENTATIVES IN WASHINGTON JULY 9, 1973. IT RESPONDS TO EUROPEAN AIDE MEMOIRE OF JUNE 26, 1973 REPORTED IN REFTEL. POSTS MAY WISH TO RELEASE TEXT TO APPROPRIATE HOST

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GOVERNMENT OFFICIALS.

2. QUOTE. THE DEPARTMENT OF STATE REFERS TO THE AIDE-MEMOIRE FROM THE EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY, OF JUNE 26, 1973, ON BEHALF OF THE EUROPEAN GOVERNMENTS CONCERNING THE DRAFT TEXT OF THE GOVERNMENTAL AGREEMENT RELATING TO A COOPERATIVE PROGRAM FOR THE DEVELOPMENT, PROCUREMENT AND USE OF A SPACE LABORATORY IN CONJUNCTION WITH THE SPACE SHUTTLE SYSTEM. THE SUGGESTED AMENDMENTS LISTED IN THE ANNEX TO THE AIDE MEMOIRE HAVE BEEN CAREFULLY CONSIDERED. THE GOVERNMENT OF THE UNITED STATES OF AMERICA PRESENTS THE FOLLOWING COMMENTS AND TEXTUAL AMENDMENTS WHICH ARE DESIGNED TO DEAL CONSTRUCTIVELY WITH THE SUGGESTIONS OF THE EUROPEAN GOVERNMENTS:

1. PREAMBULAR LAUNCH ASSISTANCE PARAGRAPH.

THIS GOVERNMENT ACCEPTS THE EUROPEAN SUGGESTION. THE SEVENTH PARAGRAPH OF THE PREAMBLE WOULD NOW READ: QUOTE CONSIDERING THAT THE GOVERNMENT OF THE UNITED STATES OF AMERICA HAS ESTABLISHED POLICIES TO MAKE AVAILABLE TO OTHER NATIONS LAUNCH ASSISTANCE FOR SCIENTIFIC AND APPLICATIONS SPACE MISSIONS FOR PEACEFUL PURPOSES; UNQUOTE

2. ARTICLE 7A ACCESS TO THE SPACE SHUTTLE.

THE EUROPEAN PROPOSAL SUGGESTS TWO CHANGES IN THE FORMULATION OF THIS ARTICLE PROPOSED BY THE GOVERNMENT OF THE UNITED STATES IN ITS AIDE MEMOIRE OF JUNE 11, 1973, NAMELY, TO PLACE THE REFERENCE TO QUOTE CONSISTENT WITH UNQUOTE INTERNATIONAL AGREEMENTS AND ARRANGEMENTS IN THE DOUBLE NEGATIVE AND TO REINTRODUCE PROVISION FOR THE USE OF THE SPACE SHUTTLE FOR LAUNCHING EUROPEAN GOVERNMENTS PAYLOADS OTHER THAN THE SPACE LABORATORY.

WITH RESPECT TO THE QUESTION OF CONSISTENCY WITH INTERNATIONAL ARRANGEMENTS AND AGREEMENTS; IT IS THE UNDERSTANDING OF THIS GOVERNMENT THAT THE EUROPEAN PROPOSAL WAS INTENDED TO ENSURE THAT THE EXISTENCE OF AN INTERNATIONAL AGREEMENT OR ARRANGEMENT WOULD NOT BE A PRECONDITION FOR AVAILABILITY OF THE SHUTTLE FOR EUROPEAN LIMITED OFFICIAL USE

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SPACE LABORATORY MISSIONS. THIS GOVERNMENT IS NOT IN DISAGREEMENT BUT HAS A STRONG PREFERENCE FOR THE RETENTION OF THE POSITIVE FORMULATION OF THE CONSISTENCY CLAUSE. IN RECOGNITION OF THE EUROPEAN CONCERN MENTIONED ABOVE, THE GOVERNMENT OF THE UNITED STATES OF AMERICA WISHES TO AFFIRM THAT IT WILL NOT UNDER THIS AGREEMENT DENY LAUNCH ASSISTANCE SPACE LABORATORY MISSIONS OF THE EUROPEAN GOVERNMENTS ON THE GROUNDS THAT AN INTERNATIONAL

AGREEMENT OR ARRANGEMENT IS NOT IN EXISTENCE AT THE TIME OF ITS PROPOSED FLIGHT.

IF THE EUROPEAN PROPOSAL REGARDING THE AVAILABILITY OF THE SHUTTLE FOR EUROPEAN PAYLOADS OTHER THAN THE SPACE LABORATORY IS TO BE ACCOMMODATED, IT IS ESSENTIAL THAT THE AGREEMENT MAKE APPROPRIATED REFERENCE TO UNITED STATES POLICY. ACCORDINGLY, IF SUCH A REFERENCE IS NOT DESIRED THE PHRASE QUOTE WITHOUT SL UNQUOTE SHOULD BE DELETED.

IN THE LIGHT OF THE ABOVE COMMENTS THIS GOVERNMENT REAFFIRMS THE PROPOSAL MADE IN ITS AIDE-MEMOIRE OF JUNE 11, 1973, THAT ARTICLE 7A READ AS FOLLOWS: QUOTE THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL, CONSIDER-

TENT WITH INTERNATIONAL AGREEMENTS AND ARRANGEMENTS, MAKE THE SPACE SHUTTLE AVAILABLE FOR SL MISSIONS OF THE EUROPEAN PARTNERS AND THEIR NATIONALS ON EITHER A COOPERATIVE OR COST-REIMBURSABLE BASIS. UNQUOTE

3. ARTICLE 7C COMMERCIAL USE.

THE EUROPEAN FORMULATION FOR AMENDMENT OF ARTICLE 7C POSES VERY SERIOUS LEGAL AND POLICY PROBLEMS FOR THIS GOVERNMENT. THE GOVERNMENT OF THE UNITED STATES OF AMERICA HAS EXAMINED ITS POSITION VERY CAREFULLY IN AN EFFORT TO MAKE THIS POSITION AS RESPONSIVE TO THE EUROPEAN POINT OF VIEW AS THE RESTRAINTS WITHIN WHICH IT MUST WORK PERMIT. ACCORDINGLY, THIS GOVERNMENT HAS REDRAFTED THE SECOND SENTENCE OF ARTICLE 7C TO READ AS FOLLOWS: QUOTE THE ESTABLISHMENT BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA OR BY THE EUROPEAN PARTNERS OF LIMITED OFFICIAL USE

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STANDARDS AND CONDITIONS FOR THE COMMERCIAL USE OF SL UNITS WILL BE THE SUBJECT OF PRIOR EXCHANGE OF VIEWS ON SUCH STANDARDS AND CONDITIONS, LOOKING TOWARD MAXIMUM PRACTICABLE HARMONIZATION OF THE RESPECTIVE POLICIES. UNQUOTE

4. ARTICLE 14C ENTRY INTO FORCE.

THIS GOVERNMENT ACCEPTS THE EUROPEAN SUGGESTION. THE SECOND SENTENCE OF ARTICLE 14C WOULD NOW READ: QUOTE THE AGREEMENT SHALL ENTER INTO FORCE FOR SUCH A EUROPEAN PARTNER ON THE DATE OF ITS INSTRUMENT OF RATIFICATION OR APPROVAL WITH THE DEPOSITARY GOVERNMENT. UNQUOTE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA HOPES
THAT THE EUROPEAN GOVERNMENTS WILL BE AGREEABLE TO THE
PROPOSALS REGARDING ARTICLES 7A AND 7C. THIS GOVERNMENT
IS PREPARED TO PROCEED IMMEDIATELY WITH THE PREPARATION
OF A DEFINITIVE TEXT OF THE AGREEMENT. THIS GOVERNMENT
AGREES WITH THE EUROPEAN SUGGESTION THAT PURELY EDITORIAL
CHANGES MAY BE INTRODUCED BY A DRAFTING GROUP. UNQUOTE
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